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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

Esvin Fernando Arredondo)
Rodriguez,)
)
Plaintiff,)
)
v.)
)
United States of America,)
)
Defendant.)

Civil Action No. 2:22-CV-02845

COMPLAINT FOR DAMAGES

COMPLAINT

Plaintiff Esvin Fernando Arredondo Rodriguez (“Mr. Arredondo Rodriguez”) brings this complaint on behalf of himself and his minor daughter Andrea Fernanda Arredondo Jerez (“Andrea”) against the United States of America pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b) and §§ 2671–2680.

INTRODUCTION

1. This complaint seeks to hold the United States government accountable for its willful, unlawful, cruel, and inhumane treatment of Mr. Arredondo Rodriguez and his then-twelve-year-old child, Andrea, following their lawful approach to an official border crossing to request asylum. Instead of responding to the Arredondos in the manner required by law, officials of the United States government forcibly separated Andrea and her father and subjected them – without reason or justification – to incarceration and tactics which amounted to torture. The U.S. government willfully inflicted severe pain and suffering on both Arredondos as part of the government’s official “Zero Tolerance” deterrence policy aimed at discouraging migrants from lawfully requesting asylum in the United States.

2. The United States’ treatment of Mr. Arredondo Rodriguez and Andrea was intentional and wantonly cruel. The Zero Tolerance policy of family separation was announced in 2018 but had first been implemented in 2017. This policy had one goal: to deter migrants from coming to the southern border of the United States to seek asylum, for fear that their children would be taken from them. As then-acting assistant secretary of Health and Human Services, Steven Wagner confirmed at the time, the government “expect[ed] that the new [separation] policy [would] result in a deterrence effect... [and] stop [immigrant families from] entering the country.”¹ Former president Donald Trump publicly

¹ Philip Bump, *Here Are the Administration Officials who Have Said that Family Separation Is Meant as a Deterrent*, WASH. POST (June 19, 2018),

1 announced the deterrence motive of the policy, tweeting “if you don’t separate,
2 FAR more people will come.”²

3 3. The government separated at least 4,200 children like Andrea from
4 their parents under the family separation policy.³ This number does not include
5 families that may not have been counted before District Judge Dana M. Sabraw of
6 the U.S. District Court for the Southern District of California entered orders in the
7 case called *Ms. L., et al. v. U.S. Immigration and Customs Enforcement (“ICE”) et*
8 *al.*, Case No. 18cv0428 DMS (MDD) enjoining the government from enforcing the
9 policy, and requiring the government formally to account for and reunite the
10 separated families.⁴

11 4. By separating children like Andrea from their parents, the government
12 intended to inflict severe harm including psychological torture on them, in the hope
13 that this would deter others from seeking asylum. The government repeatedly
14 admitted and explicitly stated its intent to traumatize families like the Arredondos,
15 with the expectation that by doing so, other families would be too terrified to come
16 to the border. Former Secretary of the U.S. Department of Homeland Security and
17 then-Chief of Staff to the President, General John Kelly, best displayed the
18 government’s indifference to immigrant children stolen from their parents when he
19 stated that “a big name of the game is deterrence,” and “it could be a tough
20 deterrent – would be a tough deterrent.”⁵ Demonstrating utter indifference to the

21 [https://www.washingtonpost.com/news/politics/wp/2018/06/19/here-are-the-administration-](https://www.washingtonpost.com/news/politics/wp/2018/06/19/here-are-the-administration-officials-who-have-said-that-family-separation-is-meant-as-a-deterrent/)
22 [officials-who-have-said-that-family-separation-is-meant-as-a-deterrent/](https://www.washingtonpost.com/news/politics/wp/2018/06/19/here-are-the-administration-officials-who-have-said-that-family-separation-is-meant-as-a-deterrent/).

23 ² Donald J. Trump (@realdonaldtrump), TWITTER (Dec. 16, 2018, 8:25 AM),
<https://twitter.com/realDonaldTrump/status/1074339834351759363>.

24 ³ Leila Rafei, *Family Separation, Two Years After Ms. L.*, ACLU, Feb. 26, 2020,
25 <https://www.aclu.org/news/immigrants-rights/family-separation-two-years-after-ms-l>.

26 ⁴ See OFFICE OF INSPECTOR GEN., SEPARATED CHILDREN PLACED IN OFFICE OF REFUGEE
27 RESETTLEMENT CARE 1, 6, 13 (Jan., 2019) (reporting that “thousands of children may have been
28 separated . . . before the accounting required by the Court [in *Ms. L.*]”); see also *Family*
Separation: Two Years Later, The Crisis Continues, KIDS IN NEED OF DEFENSE 4 (July 2020),
[https://supportkind.org/wp-content/uploads/2020/07/Family-Separation-Report-2020-FINAL-](https://supportkind.org/wp-content/uploads/2020/07/Family-Separation-Report-2020-FINAL-2.pdf)
[2.pdf](https://supportkind.org/wp-content/uploads/2020/07/Family-Separation-Report-2020-FINAL-2.pdf).

⁵ Bump, *supra* note 1.

1 suffering and long-term damage inflicted on the affected children, General Kelly
 2 mused that the children would be “put into foster care or whatever.”⁶ After Judge
 3 Sabraw enjoined the government from enforcing the Zero Tolerance policy, and its
 4 true extent and effects began to be known, a report by the Offices of Inspectors
 5 General (OIG) found that “DHS was not fully prepared to implement the
 6 Administration’s Zero Tolerance Policy or to deal with some of its after-effects.”⁷

7 5. Officials of the government willfully and wantonly inflicted immense
 8 pain and suffering on already desperate parents and children, particularly those
 9 from Central America, like Mr. Arredondo Rodriguez and Andrea. In fact,
 10 multiple government officials in addition to Mr. Trump and General Kelly stated
 11 publicly that the purpose of family separation was to deter Central American
 12 families from seeking asylum in the United States.⁸ Mr. Arredondo Rodriguez,
 13 Andrea, and thousands of others suffered at the hands of these government
 14 officials.

15 6. In 2018, Mr. Arredondo Rodriguez, his wife, Cleivi Marilu Jerez Lara
 16 (“Mrs. Jerez Lara”), and their three daughters, Keyli Yetsari Arredondo Jerez
 17 (“Keyli”), Andrea Fernanda Arredondo Jerez (“Andrea”) and Alison Samanta
 18 Arredondo Jerez (“Alison”) fled Guatemala to seek asylum in the United States.
 19 The family was forced to leave their home in Guatemala due to persistent threats
 20 against their lives related to perceived political opinion activity, following the
 21 brutal murder of then-seventeen-year-old son and brother, Marco. The family was

22 ⁶ *Transcript: White House Chief of Staff John Kelly’s Interview With NPR*, NPR (May 11,
 23 2018), <https://www.npr.org/2018/05/11/610116389/transcript-white-house-chief-of-staff-john-kellys-interview-with-npr>. (emphasis added).

24 ⁷ RICHARD J. DURBIN ET. AL., Letter to President Joseph R. Biden, Jr. (Mar. 16, 2022)
 25 <https://www.warren.senate.gov/imo/media/doc/Senate%20Letter%20to%20President%20Biden%20-%20March%2016,%202022.pdf>. (internal quotations omitted).

26 ⁸ See David Shepardson, *Trump Says Family Separations Deter Illegal Immigration*,
 27 REUTERS (Oct. 13, 2018, 5:44 PM), <https://www.reuters.com/article/us-usa-immigration-trump/trump-says-family-separations-deter-illegal-immigration-idUSKCN1MO00C>; see also
 28 *Sessions Admits Policy Is a Deterrent*, CNN (June 19, 2018), <https://www.cnn.com/videos/politics/2018/06/19/sessions-defends-controversial-immigration-policy-deterrent-sot.cnn>.

1 threatened by persons acting on behalf of the police, government, and local gangs
2 with whom those entities regularly engaged.

3 7. The Mexican government separated Mr. Arredondo Rodriguez and
4 Andrea from Mrs. Jerez Lara, Keyli and Alison, while the family was traveling on
5 a bus. As a result, Mrs. Jerez Lara and the two girls arrived at Laredo, Texas on
6 May 12, 2018 (without Mr. Arredondo Rodriguez and Andrea) and requested
7 asylum at the official Laredo border crossing. Mrs. Jerez Lara was given a credible
8 fear interview on May 24, 2018, which she passed. After briefly residing at the
9 Dilley family residential facility, mother and two daughters were given a Notice to
10 Appear in immigration court and allowed to travel to Los Angeles, California to
11 stay with a relative while they went through immigration proceedings.

12 8. A few days after Mrs. Jerez Lara and two of her daughters arrived at
13 the official Laredo border crossing, Mr. Arredondo Rodriguez and Andrea arrived
14 at the same border crossing on May 16, 2018, to ask for asylum. (All family
15 members approached the official Laredo border crossing facility to request asylum;
16 none of them crossed into the United States unlawfully.) When Mr. Arredondo
17 Rodriguez and Andrea walked up to the official Laredo border crossing to seek
18 asylum in the manner allowed under U.S. law, they were treated very differently
19 than Mrs. Jerez Lara, Keyli and Alison had been. Government agents grabbed and
20 forcibly separated Andrea from her father, manhandling her away from him as she
21 sobbed. Neither Andrea nor her father were told what was happening, why Andrea
22 was being taken, where she would be taken or when they might see each other
23 again. Mr. Arredondo Rodriguez was subsequently imprisoned in cruel and
24 inhumane conditions in a series of federally contracted facilities in Texas and
25 Georgia, without ever being told of any charges against him. Though she had
26 asked for asylum at the border crossing with her father, Andrea was declared to be
27 an “unaccompanied minor” and was sent to an Office of Refugee Resettlement-
28 contracted facility in Texas for children who came to the border by themselves.

1 Government officials denied Mr. Arredondo Rodriguez access to the asylum
2 process, lied to him about his rights, tricked him, and ultimately deported him in
3 direct violation of orders that had been entered by Judge Sabraw in the *Ms. L. case*
4 enjoining the deportation of parents whose children had been taken from them.

5 9. After his deportation, Mr. Arredondo Rodriguez lived in fear and in
6 hiding in Guatemala, moving from place to place. After weeks in custody, and
7 without ever speaking with her father again, Andrea was eventually released into
8 the custody of her mother in Los Angeles, California.

9 10. After vigorously contested and extensive proceedings in the *Ms. L.*
10 case, Judge Sabraw ultimately found, on September 4, 2019, Case No: 3:18-cv-
11 00428-DMS-MDD, (ECF at 456, p. 13, lines 13-19) that the United States had
12 unlawfully deported Mr. Arredondo Rodriguez. Before entering this Order (the
13 “September 4, 2019 Order”), Judge Sabraw had ordered the government to produce
14 *the entire immigration record* on which Mr. Arredondo’s deportation had been
15 based, in order to fully develop the record. Case No: 3:18-cv-00428-DMS-MDD,
16 (ECF No. 437, ECF No. 456 at, 9). The government failed to produce any
17 documents concerning Mr. Arredondo Rodriguez that would have shown that it
18 complied with the law by, for example, providing him with access to counsel,
19 documents in his native language, notice of any charges against him, or a credible
20 fear interview. In contrast, Mr. Arredondo’s sworn declarations established that
21 the government ignored U.S. law, lied to him about his rights and situation and
22 deported him without any legal basis, notwithstanding Judge Sabraw’s injunction
23 against such deportation.

24 11. Notwithstanding Judge Sabraw’s September 4, 2019 Order, the
25 government *still* did not allow Mr. Arredondo Rodriguez to return to the U.S. to be
26 reunited with Andrea and to seek asylum with his family *for more than four*
27 *months*. Mr. Arredondo Rodriguez lived every day of this four-month period in
28 despair and danger. Finally, after another emergency motion before Judge Sabraw

1 to enforce the September 4, 2019 Order, U.S. Immigration and Customs
2 Enforcement (“ICE”) sent Mr. Arredondo Rodriguez’s counsel a letter dated
3 January 17, 2020 (the January 17, 2020 ICE Letter). Instead of acknowledging
4 that a federal court had ordered Mr. Arredondo’s return, the letter stated that
5 Mr. Arredondo was being offered “humanitarian parole” for a period of three days.
6 The January 17, 2020 ICE Letter directed Mr. Arredondo Rodriguez to present the
7 letter at the U.S. Embassy in Guatemala City to obtain travel documents to enter
8 the United States. When Mr. Arredondo Rodriguez and his counsel presented the
9 January 17, 2020, ICE letter at the U.S. Embassy on January 21, 2020, however,
10 they were refused entrance to the Embassy and directed to leave while armed
11 Guatemalan police stood by. Only after telephonic intervention by Congressional
12 officials, were Mr. Arredondo Rodriguez and his counsel directed to go to an ICE
13 facility elsewhere in Guatemala City, where they were provided two sealed
14 envelopes to present (1) to Guatemalan airport officials and (2) to U.S. Customs
15 and Border Protection officials when traveling to the United States the next day.

16 12. Throughout this experience, Mr. Arredondo Rodriguez was terrified
17 that at any moment he could again be grabbed and incarcerated or that United
18 States officials were tricking and/or lying to him about whether he would be
19 allowed to reunite with his daughter and family. Mr. Arredondo Rodriguez
20 lawfully re-entered the country on January 22, 2020, flying into Los Angeles,
21 California, accompanied by his lawyer, a Catholic priest, and a rabbi, who were
22 there to provide emotional and spiritual support.

23 13. The reunification of the Arredondo-Jerez family did not abate the
24 harm caused by the United States government. The trauma inflicted on
25 Mr. Arredondo Rodriguez and Andrea caused both to suffer severe emotional
26 distress and has resulted in diagnoses that include post-traumatic stress disorder.
27 Both Mr. Arredondo Rodriguez and Andrea suffer ongoing psychological distress
28 including depression, obsessive anxiety, and trauma of an extreme nature. While

1 incarcerated without cause at for-profit prisons in Texas and Georgia,
2 Mr. Arredondo Rodriguez's distress included suicidal ideation and debilitating
3 physical symptoms including rapid weight loss, severe hair loss, chronic
4 headaches, abdominal pain, and urinary tract pain. In all, the government's policy
5 succeeded in its objective—the United States severely traumatized Mr. Arredondo
6 Rodriguez and his child causing effects which will continue throughout their lives.

7 14. Mr. Arredondo Rodriguez and Andrea's separation, imprisonment,
8 wrongful deportation, and mistreatment at the hands of United States government
9 officials and their contracted agents has irrevocably debilitated their physical,
10 emotional, and psychological wellbeing. The United States is thus liable under the
11 FTCA for all the conduct that harmed Mr. Arredondo Rodriguez and Andrea.

12 **JURISDICTION AND VENUE**

13 15. This Court has jurisdiction over Mr. Arredondo Rodriguez's and
14 Andrea's claims for money damages against the United States pursuant to 28
15 U.S.C. § 1346(b)(1).

16 16. Mr. Arredondo Rodriguez has exhausted his and Andrea's FTCA
17 administrative claims. On February 7, 2020, Mr. Arredondo Rodriguez's served
18 the relevant United States departments and agencies with all required
19 administrative forms for his and Andrea's claims by priority overnight mail. The
20 government acknowledged receipt of these claims in writing by letter dated May
21 11, 2020, from James G. Touhey, Jr., of the U.S. Department of Justice, Federal
22 Tort Claims Act Staff, but provided no final disposition of the administrative
23 claims over the six months thereafter and has since failed to address them.
24 Mr. Arredondo Rodriguez therefore exercises the option to deem his own and
25 Andrea's claims denied pursuant to 28 U.S.C. § 2675(a).

26 17. Mr. Arredondo Rodriguez and Andrea reside in Los Angeles,
27 California, which is within the Central District of California. Venue is therefore
28 appropriate under 28 U.S.C. § 1402(b).

PARTIES

18. Plaintiff Esvin Fernando Arredondo Rodriguez is a now 47-year-old Guatemalan man, who at age 43, was separated from his then-12-year-old daughter, Andrea Fernanda Arredondo Jerez, by officials of the United States government on May 16, 2018. The separation continued for twenty months, until they were finally reunited on January 22, 2020.

19. Defendant United States of America is the proper defendant under the FTCA. 28 U.S.C. §§ 1346(b), 2674. Mr. Arredondo Rodriguez is seeking damages from the United States for his and his daughter's personal injuries caused by the wrongful acts or omissions of its employees, including employees of the Department of Homeland Security (DHS), Customs and Border Protection (CBP), United States Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), as well as the Department of Health and Human Services (HHS). See 28 U.S.C. § 2671. Those employees of the United States were acting within the scope of their employment under circumstances where the United States, if a private person, would be liable to Mr. Arredondo Rodriguez and his daughter. 28 U.S.C. § 1346(b).

ALLEGATIONS

A. The Government's Family-Separation Policy

20. In 2017, former U.S. president Donald Trump and his administration began separating families along the United States' southern border with Mexico as part of a yet-to be announced "Zero-Tolerance" policy. The policy was not publicly announced until April 2018. Among other things, it mandated the prosecution of all persons that crossed the border between ports of entry.⁹ Of course, Mr. Arredondo Rodriguez and his daughter Andrea did not cross the border

⁹ *Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry*, DEP'T OF JUSTICE (Apr. 6, 2018), <https://www.justice.gov/opa/pr/attorney-general-announces-zero-tolerance-policy-criminal-illegal-entry>.

1 between ports of entry but sought asylum at an official border crossing.
 2 Nevertheless, the government officials applied the policy to them. The family-
 3 separation aspect of the policy, in which children were forcibly taken from parents,
 4 sought to discourage other families from seeking lawful asylum in the United
 5 States by imposing draconian and inhuman consequences upon those who sought
 6 asylum. Deterring immigration by traumatizing families and injuring parents and
 7 children was the policy's objective.

8 21. Trump administration officials knew that forcible separation would
 9 cause life-changing and irreparable trauma to parents and children. They simply
 10 did not care. The family-separation policy was designed to inflict so much pain
 11 and suffering that potential applicants for asylum – who had not yet come to the
 12 U.S. border – would not come, and those already detained in the United States
 13 would be so psychologically and physically disabled that they would be unable to
 14 navigate the opaque immigration system.

15 22. Judge Dana Sabraw, of the U.S. District Court for the Southern
 16 District of California, enjoined the family-separation policy after finding that
 17 plaintiffs would likely succeed on their claim that the separations were
 18 unconstitutional.¹⁰ Undeterred, then-president Trump continued to promote the
 19 policy telling reporters that “[if] they feel there will be separation, they don’t
 20 come.”¹¹

21 **B. Mr. Arredondo Rodriguez and Andrea Come to the United States**
 22 **Seeking Asylum**

23 23. Mr. Arredondo Rodriguez, his wife and his three daughters were
 24 forced to leave Guatemala after Mr. Arredondo Rodriguez’s seventeen-year-old
 25 son Marco was murdered and the rest of the family’s lives were repeatedly
 26 threatened by Guatemalan police, government officials and gang members

27 ¹⁰ *Ms. L. v. U.S. Immigr. & Customs Enf’t*, 310 F. Supp. 3d 1133, 1142–46, 1149 (S.D.
 28 Cal. 2018), modified, 330 F.R.D. 284 (S.D. Cal. 2019).

¹¹ Shepardson, *supra* note 8.

1 affiliated with them, because of Mr. Arredondo Rodriguez's perceived political
2 activity.

3 24. The family fled Guatemala together at the end of February 2018.
4 Mexican authorities pulled Mr. Arredondo Rodriguez and Andrea off a bus on
5 which the family was traveling, thus separating them from the rest of the family,
6 before the group arrived at the U.S. border. Accordingly, Mrs. Jerez Lara and
7 daughters Keyli and Alison arrived at the border and sought asylum at the official
8 border crossing several days before Mr. Arredondo Rodriguez and Andrea arrived.

9 25. On May 16, 2018, Mr. Arredondo Rodriguez and Andrea arrived at
10 the Nuevo Laredo official border crossing. They walked up to the official crossing
11 point and asked for asylum in the manner allowed under U.S. law.

12 **C. Government Agents Separate Mr. Arredondo Rodriguez and**
13 **Andrea**

14 26. After presenting themselves to immigration officials at Nuevo Laredo,
15 Mr. Arredondo Rodriguez and Andrea were immediately detained in a cold room
16 at the station with about twenty-five other adults and children. They were left in
17 this room for eight to nine hours.

18 27. The adults, including Mr. Arredondo Rodriguez, were told to fill out
19 forms for their children first and next themselves. As Mr. Arredondo Rodriguez
20 filled out his and Andrea's forms, an immigration officer grabbed one of Andrea's
21 arms and pulled her away from her father. Without responding to Mr. Arredondo
22 Rodriguez's cries for an explanation as to why his child was being treated so
23 aggressively, the officer announced that he was taking Andrea to an area with other
24 children.

25 28. Andrea, who is usually a stoic child, could not stop crying. Shaking,
26 she screamed that she did not want to be taken from her father. She grabbed her
27 father and would not let go. Mr. Arredondo Rodriguez begged the officer to let
28 Andrea stay as she was only twelve years old. He pleaded with the officer, asking

1 for some explanation about where he was taking Andrea. The officer said only that
2 more information might be available later. Too scared and panicked to say
3 anything to the officer, Andrea could only look at Mr. Arredondo Rodriguez, with
4 tears streaming down her face as she was taken away.

5 29. Powerless to help his child, Mr. Arredondo Rodriguez felt shame and
6 despair. He had no recourse against the aggressive, uniformed officer. Still, he
7 felt he had failed his daughter. Having to let the officer take his Andrea agonized
8 him. As he helplessly watched Andrea get dragged away, Mr. Arredondo
9 Rodriguez felt panic at the thought that the officer would harm his daughter and
10 that he would never see her again.

11 **D. Government Agents Harm Mr. Arredondo Rodriguez**

12 30. Mr. Arredondo Rodriguez remained with other distraught parents who
13 had also had their children taken away. Mr. Arredondo Rodriguez begged the
14 officers who occasionally patrolled the halls to tell him what they had done with
15 Andrea, but the officers did not respond.

16 31. At about 3:00 a.m., officers lined up the detained children outside of
17 the adult holding cell in direct view from a window of their panicked parents.
18 Having seen their children lined up like prisoners, the parents pounded on the door,
19 screaming for information about the fate of their children. None of the officers
20 responded. The officers marched the children out of sight.

21 32. The room in which the adults remained was cold and cramped.
22 Mr. Arredondo Rodriguez was only given a Mylar sheet for warmth. There were
23 no seats or beds. The officers distributed food and a small bottle of water twice in
24 the time Mr. Arredondo Rodriguez was confined there. The parents continued to
25 plead for information about their children to the officer who brought them food.
26 The officer provided no information. Approximately sixteen hours later, the
27 parents were moved to formal detention centers.
28

1 33. ICE moved Mr. Arredondo Rodriguez to the Rio Grande Detention
2 Center near Laredo Texas the next day. The Rio Grande Detention Center is a
3 privately owned, for-profit facility operated by the GEO Group under contract to
4 ICE. Mr. Arredondo Rodriguez asked if Andrea would be waiting there for him.
5 The officers simply said no. To make the transfer to the Rio Grande Detention
6 Center, ICE officers handcuffed Mr. Arredondo Rodriguez behind his back and
7 placed him in leg chains. Short chains connected cuffs on his hands and feet,
8 pulling his arms to his feet with each step. Mr. Arredondo Rodriguez, a law-
9 abiding man with no criminal history, who had not been apprised of any
10 wrongdoing, felt deeply ashamed. He did not understand why he was being treated
11 like a criminal.

12 34. When Mr. Arredondo Rodriguez arrived at Rio Grande Detention
13 Center, he was taken into a cell. Officers still refused to give him any information
14 about Andrea. Nor did they explain why he was being imprisoned, or for how
15 long. Eventually, Mr. Arredondo Rodriguez learned that Andrea was in a
16 detention center for minors in San Antonio, Texas. He was not allowed to contact
17 her, and he was not allowed to receive phone calls. Mr. Arredondo Rodriguez was
18 held in the Rio Grande Detention Center for two-and-a-half weeks.

19 35. Without notice or explanation, ICE next moved Mr. Arredondo
20 Rodriguez to Stewart Detention Center, more than 1000 miles away, in Georgia.
21 Stewart is another for-profit prison operated by CoreCivic, under contract to ICE.
22 During the long trip to Georgia, ICE again cuffed, and placed Mr. Arredondo
23 Rodriguez in leg chains for up to twelve hours at a time.

24 36. At Stewart, Mr. Arredondo Rodriguez became ill. He lost his appetite
25 and was too sick to go out into the yard. He did not have access to bare necessities
26 like toothpaste, which the prison sold for \$11 a tube. He did not know the other
27 prisoners or the reasons for their imprisonment. Not knowing who to trust, he
28

1 suffered in isolation. He lay awake at night fighting off nightmares of his family
2 being stripped away from him, one-by-one.

3 37. While at Stewart, Mr. Arredondo Rodriguez developed severe and
4 frequent headaches, mostly behind his left eye. He suffered a high fever. In his
5 cell at Stewart, Mr. Arredondo Rodriguez tried to fight off the chills and body
6 aches in debilitating pain. His hair began to fall out, and he broke out in hives.
7 His stomach ached, and he developed symptoms of a urinary tract infection. He
8 lost eight pounds during the first two weeks he was incarcerated at Stewart. Prison
9 officials ignored or failed to notice his condition. No medical care was offered.

10 38. Mr. Arredondo Rodriguez's mental health significantly declined. He
11 was desperate to know what had happened to his family. Consumed by fear and
12 sadness, he became anxious and irritable. He could not fight off intrusive thoughts
13 of his family being harmed. Unable to help his family or himself, Mr. Arredondo
14 Rodriguez fell into a deep depression.

15 39. After two weeks at Stewart, ICE once again inexplicably transferred
16 Mr. Arredondo Rodriguez to another facility – Folkston Immigration Processing
17 Center in Georgia. Folkston is another for-profit prison operated by GEO Group,
18 under contract with ICE. For the entirety of the two-hundred-mile trip between
19 Stewart and Folkston, ICE cuffed Mr. Arredondo Rodriguez and placed him in leg
20 chains. After another ten disorienting days at Folkston, Mr. Arredondo Rodriguez
21 was again transferred in chains *back to Stewart*, where he was imprisoned for
22 another month and a half.

23 40. At both Georgia detention centers Mr. Arredondo Rodriguez was
24 afraid he would be punished if he affirmatively requested to see a doctor or nurse.
25 He observed that those who complained or asked for help ended up in a locked
26 isolation. Mr. Arredondo Rodriguez heard that some men were kept in isolation
27 for long periods of time. Prison officers did nothing to dispel the rumors about the
28 consequences of seeking medical care. Mr. Arredondo Rodriguez was never

1 offered medical care even though he clearly required medical attention. No staff
 2 ever asked about Mr. Arredondo Rodriguez's health or his obviously deteriorating
 3 condition.

4 41. As he battled illness, Mr. Arredondo Rodriguez could not escape the
 5 thoughts that he would never see his family again or that they had come to great
 6 harm. He was consumed by terror. He prayed to fight off his suicidal ideations.

7 42. At Folkston, Mr. Arredondo Rodriguez was directed to speak with a
 8 woman he was told was an ICE representative on the phone. He was not given the
 9 woman's name. He could not understand her questions, but the woman refused to
 10 repeat them. Eight days after that phone call, an unidentified ICE officer told Mr.
 11 Arredondo Rodriguez that he had failed a "credible fear interview," and that ICE
 12 had determined he did not qualify for asylum. The ICE officer told Mr. Arredondo
 13 that it would be a waste of time for him to ask for an immigration judge to review
 14 ICE's decision because American immigration judges always defer to ICE's
 15 decisions. The ICE agent said the U.S. is "not interested in accepting people like
 16 Mr. Arredondo Rodriguez." The ICE agent told Mr. Arredondo Rodriguez to sign
 17 a paper that was written in English without a translation. The officer told Mr.
 18 Arredondo Rodriguez that unless he signed, he would stay in detention
 19 indefinitely.¹² The ICE agent adamantly stated that "people like [Mr. Arredondo
 20 Rodriguez]" can never get asylum in this country. The ICE officer did not give
 21 Mr. Arredondo Rodriguez any papers memorializing his name or the statements he
 22 made to Mr. Arredondo Rodriguez.

23
 24
 25 ¹² In *Ms. L*, Judge Sabraw ordered the government to produce all records on which it had
 26 relied in deporting Mr. Arredondo Rodriguez. *Ms. L. v. U.S. Immigr. & Customs Enf't*,
 27 No. 18-cv-00428, ECF No. 437, 3 (S.D. Cal. July 29, 2019). The government did not produce a
 28 single document suggesting Mr. Arredondo Rodriguez was ever given a credible fear interview.
 Nor did the government produce the paper Mr. Arredondo Rodriguez was tricked into signing. It
 is unknown which agency personnel organized the phone conversation, or what its purpose was.
 There is no evidence that Mr. Arredondo Rodriguez was given a bona fide credible fear
 interview before he was deported.

1 43. The U.S. government deported Mr. Arredondo Rodriguez to
2 Guatemala on August 22, 2018, in direct violation of Judge Sabraw's orders.
3 Mr. Arredondo Rodriguez was terrified he would be killed after he was returned to
4 Guatemala. In Guatemala, he lived in a state of perpetual terror. He hid, moving
5 around from place to place to avoid detection by those who had murdered his son
6 and threatened the lives of his family.

7 **E. Government Agents Harm Andrea**

8 44. After being dragged away from her father at the border station,
9 Andrea was placed in a different room crowded with children. Some children were
10 crying, and others stood in silence. In the middle of the night, government officers
11 ordered the children to line up outside. The stunned and disoriented Andrea
12 followed the officers' orders. She believed she would never see her father again,
13 and she had no hope that she would ever be able to find her mother and sisters.
14 She was unaware that her father had watched the children line up outside.

15 45. Andrea was taken to Baptist Child and Family Services in San
16 Antonio Texas, a subcontracted Office of Refugee Resettlement ("ORR") facility
17 for unaccompanied minors. Unlike Andrea, the children at this facility had chosen
18 to come to the U.S. without their parents. Andrea arrived at the shelter crying
19 uncontrollably. The officials refused her request to contact her parents. Andrea
20 was held in ORR custody for about a month, not knowing where her father was or
21 when she would ever see her family. Andrea feared that she would be kept at the
22 shelter until she turned eighteen.

23 46. Eventually, Andrea was released to the custody of her mother in Los
24 Angeles, California. Her hopes of seeing her father again were dashed when she
25 learned he had been deported.

26 47. Andrea's mental health deteriorated, having lost her father after the
27 horrendous ordeal at the border. Andrea was haunted by the memories of her
28

1 ordeal at the border and her helplessness in detention. Andrea struggled to eat or
2 sleep.

3 **F. Mr. Arredondo Rodriguez Was Unlawfully Deported in Direct**
4 **Violation of a Federal Court Order**

5 48. On June 26, 2018, Judge Dana Sabraw granted a nationwide
6 injunction against the Trump Administration's family separation policy. *Ms. L. v.*
7 *U.S. Immigr. & Customs Enf't*, 310 F.Supp.3d 1133 (S.D. Cal. 2018). Judge
8 Sabraw's order not only enjoined the family-separations at the border but also
9 forbade the government from deporting parents (like Mr. Arredondo Rodriguez)
10 whose children had been taken from them.

11 49. On June 26, 2018, Mr. Arredondo Rodriguez was ill and languishing
12 in the Stewart Detention Center in Georgia. Two months *after* Judge Sabraw's
13 injunction, rather than reuniting him with Andrea, the government deported him to
14 Guatemala.

15 50. Three months later, Judge Sabraw entered a third order, approving an
16 agreement between the government and the ACLU (the "*Ms. L Settlement*
17 *Agreement*") that was, among other things, intended to give an opportunity to *some*
18 deported parents like Mr. Arredondo Rodriguez the opportunity to return to the
19 U.S. to apply for asylum with their children.

20 51. In March 2019, Judge Sabraw ordered the government to identify and
21 reunite all separated families that had been in U.S. custody on June 26, 2018,
22 whether or not members of the family had been deported.¹³ In response, the
23 government simply omitted Mr. Arredondo Rodriguez and Andrea from its
24 identification of separated families. Accordingly, the government refused even to
25 consider Mr. Arredondo Rodriguez for potential return to the U.S. under the
26 provisions of the *Ms. L Settlement Agreement*. After another motion before Judge
27

28 ¹³ Julie Small, *Judge: Immigration Must Account for Thousands More Migrant Kids Split Up from Parents*, NPR, (March 19, 2019), <https://www.npr.org/2019/03/09/701935587/judge-immigration-must-identify-thousands-more-migrant-kids-separated-from-paren>.

1 Sabraw, which was heavily contested by the government, Judge Sabraw ordered
2 the government to count Mr. Arredondo Rodriguez and Andrea in a new
3 identification of separated families. *Ms. L. v. U.S. Immigr. & Customs Enf't*, 3:18-
4 cv-00428-DMS-MDD, (ECF No. 386 at, 13-14) (S.D. Cal. Mar. 8, 2019).

5 52. Once the government was forced to concede that it had separated
6 Mr. Arredondo and Andrea and that Mr. Arredondo Rodriguez was entitled to be
7 considered for return under the *Ms. L.* Settlement Agreement, Mr. Arredondo
8 Rodriguez applied to be considered. He provided sworn declarations concerning
9 what he had experienced. The government rejected his application and that of
10 every other deported parent who asked to return under the provisions of the *Ms. L.*
11 Settlement Agreement.

12 53. Mr. Arredondo Rodriguez next applied for humanitarian parole at the
13 suggestion of one of the government's lawyers in the *Ms. L.* case. Mr. Arredondo
14 Rodriguez provided sworn testimony and letters of support for his application from
15 the Roman Catholic Archdiocese of Los Angeles and Temple Israel of Hollywood.
16 The government summarily denied Mr. Arredondo Rodriguez's humanitarian
17 parole application, and the applications of every separated and deported parent
18 who similarly applied, without explanation.

19 54. Mr. Arredondo Rodriguez was part of a group of separated and
20 deported parents on whose behalf the ACLU, the plaintiff in the *Ms. L.* case,
21 sought relief from Judge Sabraw, based on the government's bad faith refusal to
22 comply with the provisions of the *Ms. L.* Settlement Agreement. On September 4,
23 2019, after several rounds of briefing and oral argument and after having ordered
24 the government to produce all evidence on which it had based the deportations of
25 the parents in question (including Mr. Arredondo Rodriguez), Judge Sabraw ruled
26 that the government's deportation of Mr. Arredondo Rodriguez in the summer of
27 2018 was unlawful. Judge Sabraw ordered the government to facilitate his return
28 to be reunited with Andrea to pursue his asylum claim.

1 55. On January 22, 2020, Mr. Arredondo Rodriguez was finally allowed
2 to return to the U.S. on a commercial flight—to be reunited with his children and
3 to pursue asylum with his family. When he returned, Mr. Arredondo Rodriguez’s
4 wife, Cleivi Marilu Jerez Lara, and his daughters Keyli and Alison, had already
5 filed asylum claims before an “immigration judge” at the Executive Office of
6 Immigration Review (“EOIR”). EOIR is a sub-agency of the U.S. Department of
7 Justice, and its “judges” are not independent federal judges, appointed by the
8 president and confirmed by the Senate, with authority derived from Article III of
9 the U.S. Constitution. Rather, they are civil servants who administratively
10 adjudicate matters under the supervision and at the direction of the Department of
11 Justice.

12 56. Although backlogs ordinarily would have meant a long wait before
13 Mr. Arredondo Rodriguez received an initial date to appear in EOIR immigration
14 court, ICE immediately docketed his case, and Mr. Arredondo Rodriguez’s case
15 was assigned to a *different* EOIR judge than the judge who had been presiding over
16 the rest of the family’s case – a judge who had never worked for ICE.
17 Mr. Arredondo Rodriguez’s case was assigned to Jason Waterloo, who is not a
18 member of the California Bar, and who – from 2014 through July 2018, was
19 Assistant Chief Counsel of the Principal Legal Advisor to ICE and the Department
20 of Homeland Security. These two entities (ICE and DHS) were the governmental
21 agencies responsible for the wrongful conduct against Mr. Arredondo Rodriguez
22 and his daughter Andrea that is addressed herein. ICE and DHS were directly
23 responsible for Mr. Arredondo Rodriguez’s unlawful deportation in 2018, were
24 defendants in the *Ms. L.* class action in which Judge Sabraw found their conduct to
25 be unlawful, and were the agencies that vigorously resisted Mr. Arredondo
26 Rodriguez’s return to the U.S. On motion by Judge Waterloo’s former employer
27 (the Office of Chief Counsel, ICE and DHS), the asylum cases of Mrs. Jerez Lara
28 and the two girls were immediately re-assigned to Judge Waterloo as well.

1 Mr. Arredondo is deeply concerned about the appearance of bias and absence of
 2 impartiality in the consideration of his and his family's asylum claims.

3 57. Mr. Arredondo Rodriguez's asylum claim (and that of the five
 4 members of the family) has been fully briefed since 2020.

5 58. In 2022, the immigration case of the five members of Mr. Arredondo
 6 Rodriguez's family was assigned to a new immigration judge, Andrea Siebert, who
 7 was appointed as an EOIR judge in October 2021. From 2012 to 2021, Ms.
 8 Siebert, who is not a member of the California Bar, worked as Assistant Chief
 9 Counsel of the Principal Legal Advisor to ICE and the Department of Homeland
 10 Security in Los Angeles, California. These two entities (ICE and DHS) were the
 11 governmental agencies responsible for the wrongful conduct against
 12 Mr. Arredondo Rodriguez and his daughter Andrea that is addressed herein. ICE
 13 and DHS were directly responsible for Mr. Arredondo Rodriguez's unlawful
 14 deportation in 2018, were defendants in the *Ms. L.* class action in which Judge
 15 Sabraw found their conduct to be unlawful and were the agencies that vigorously
 16 resisted Mr. Arredondo Rodriguez's return. Mr. Arredondo remains deeply
 17 concerned about the appearance of bias and absence of impartiality in the
 18 consideration of his and his family's asylum claims. He also fears retaliation as a
 19 result of his lawful pursuit of this case under the Federal Tort Claims Act.

20 **G The Separation of Mr. Arredondo Rodriguez from Andrea Was**
 21 **Unlawful and Unconstitutional**

22 59. As the decisions in *Ms. L.* confirmed, those who were subjected to the
 23 family-separation policy were "victims of a wide-spread government practice"
 24 implemented by ICE, DHS and Customs and Border Protection for "no legitimate
 25 reason." *Ms. L. v. U.S. Immigr. & Customs Enf't*, 302 F. Supp. 3d 1149, 1165
 26 (S.D. Cal. 2018). In fact, by separating Mr. Arredondo Rodriguez from Andrea,
 27 federal officers from these agencies not only breached their duty to immigrant
 28 families but also violated their fundamental constitutional and human rights.

60. Despite the family-separation policy's implication, federal officers have a duty to immigrant families. *See* U.S. Const. Amend. V; The Refugee Act, Pub. L. No. 96-212, 94 Stat. 102 (1980) (codifying these duties). First, they have a duty not to separate immigrant families that are arrested together. *Ms. L.*, 310 F. Supp. 3d at 1142–46 (finding family-separation likely violates substantive due process rights to family integrity under the Fifth Amendment); *see also Flores v. Reno*, No. 2:85-cv-4544, (ECF No. 177 at 5–6, 24) (C.D. Cal. July 24, 2015) (finding federal officials have a duty to preserve family units and promptly release minors in immigration custody). Second, they must prioritize the release of minors to family members. 8 C.F.R. § 1236.3(b). Third, they have a duty to permit detained parents to contact family members who were arrested with them. *Ms. L.*, 310 F. Supp. 3d at 1144–45, 1149–50. Finally, they have a duty to ensure the prompt release of minors held in immigration custody. *See* 8 U.S.C. § 1232(c); *see also* United Nations High Commissioner for Refugees, *Detention Guidelines: Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention* 34 (2012), <http://www.unhcr.org/505b10ee9.html> (children should as a general matter “not be detained at all”). Officials of the United States breached all four of these duties to Mr. Arredondo Rodriguez and Andrea.

61. Similarly, the United States has a non-discretionary legal obligation to ensure that asylum seekers are not coerced into giving up immigration claims. *See* 8 C.F.R. § 235.4 (an immigrant's “decision to withdraw his or her application for admission must be made voluntarily”). Nevertheless, the United States breached this obligation by implementing the family-separation policy, which was expressly aimed at traumatizing candidates for asylum to deter their lawful entry into the United States. *Ms. L. v. U.S. Immigr. & Customs Enf't*, 403 F. Supp. 3d 853, 863 (S.D. Cal. 2019) (finding petitioner's choice to withdraw her asylum claim was not

1 voluntary because “she made her decision as a result of the continued separation
2 from her child”).

3 62. Moreover, in separating Mr. Arredondo Rodriguez from Andrea, the
4 government violated their fundamental constitutional and human right to familial
5 association without a compelling interest. *See Quilloin v. Walcott*, 434 U.S. 246,
6 255 (1978) (citing *Wisconsin v. Yoder*, 406 U.S. 205, 231–33 (1972)) and *Meyer v.*
7 *Nebraska*, 262 U.S. 390, 399–401 (1923). “Interference with” the “fundamental
8 right to familial association” “requires a powerful countervailing interest.” *United*
9 *States v. Wolf Child*, 699 F.3d 1082, 1092 (9th Cir. 2012) (quoting *Lassiter v.*
10 *Dep’t of Soc. Servs.*, 452 U.S. 18, 27 (1981)); *Halet v. Wend Inv. Co.*, 672 F.2d
11 1305, 1310–11 (9th Cir. 1982) (requiring compelling interest to deprive parents of
12 their “fundamental right” to “live with their children”). Yet, “nothing in federal
13 law suggests that deterring immigration by indefinitely separating families once
14 parents have been transferred to immigration custody is a compelling or legitimate
15 government objective.” *M.G.U. v. Nielsen*, 325 F. Supp. 3d 111, 121 (D.D.C.
16 2018). Thus, the government cannot establish a “powerful” or “compelling”
17 interest to justify the family separation policy. Instead, with blatant disregard for
18 Mr. Arredondo Rodriguez and Andrea’s constitutional right to remain a family
19 unit, the government tore them apart to traumatize them.

20 63. In addition, Mr. Arredondo Rodriguez’s separation from Andrea was
21 in violation of their due-process rights. *Ms. L.*, 302 F. Supp. 3d 1149, 1166–67
22 (finding that the family-separation policy likely violated parents’ and children’s
23 due-process rights); *see also C.M. v. United States*, No. CV-19-05217, 2020 WL
24 1698191, at *4 (D. Ariz. Mar. 30, 2020) (finding it plausible that the family-
25 separation policy violated the family’s constitutional rights). Separating parents
26 from their children in such a traumatizing manner is “so egregious, so outrageous,
27 that it may fairly be said to shock the contemporary conscience,” so “brutal and
28 offensive that it [does] not comport with traditional ideas of fair play and decency”

1 and so baseless that it “interferes with rights implicit in the concept of ordered
2 liberty.” *Ms. L.*, 310 F. Supp. 3d at 1144–46 (internal quotation marks omitted).

3 64. In all, the government breached its duties to immigrant families in its
4 treatment of Mr. Arredondo Rodriguez and Andrea. More importantly, treatment
5 of Mr. Arredondo Rodriguez and Andrea was unconstitutional.

6 **H. Mr. Arredondo Rodriguez Suffers as a Result of the Separation**
7 **from Andrea and His Mistreatment at the Hands of Government**
8 **Officers**

9 65. Although Mr. Arredondo Rodriguez has been reunited with his family
10 to pursue his claim for asylum, he continues to be greatly impacted by the
11 government's wrongful conduct, including his prolonged separation from his
12 children and his inhumane detention. Rather than acting as a safe haven, as
13 contemplated by federal asylum law, the United States tortured and deported
14 Mr. Arredondo Rodriguez in direct violation of its own laws.

15 66. The trauma of his experience in U.S. custody compounded each time
16 Mr. Arredondo learned that the U.S. government was resisting his return in the *Ms.*
17 *L* case, despite having unlawfully deported him. Mr. Arredondo Rodriguez’s
18 trauma intensified as he was forced to live in fear for his life and in hiding in
19 Guatemala. In a report by Physicians for Human Rights, clinicians found that
20 deportation after family separation compounded parents’ distress.¹⁴ This distress
21 led to ongoing functional impairment in victims of family separation.

22 67. In turn, Mr. Arredondo Rodriguez continues to experience physical
23 and psychological harm. He still battles intense anxiety, coupled with flashbacks
24 of Andrea being yanked from him. He feels perpetually sad and anxious regardless
25 of his daily reality. He continues to struggle with sleep and at times feels
26 overwhelmed by a great emptiness. Most profoundly, Mr. Arredondo Rodriguez

27 ¹⁴ Brittney Bringuez et. al., “*Part of my heart was torn away*”: *What the U.S.*
28 *Government Owes the Tortured Survivors of Family Separation*, PHYSICIANS FOR HUMAN
RIGHTS, (Apr. 19, 2022), <https://phr.org/our-work/resources/part-of-my-heart-was-torn-away/>.

suffers from “psychological castration.” As a result, Mr. Arredondo Rodriguez struggles to reconnect with his identity as a father and protector. He feels impotent and helpless. This helplessness has extended into his once strong faith and has caused him to question his relationship to God, previously a source of comfort. Overall, Mr. Arredondo Rodriguez’s symptoms have manifested into Posttraumatic Stress Disorder, Complex Type (“PTSD-C”), the most severe form of PTSD.

I. Andrea Suffers as a Result of the Separation from her Father and Her Mistreatment at the Hands of Government Officers

68. The long-term effects of separation on Andrea will continue to be devastating throughout her life. The American Academy of Pediatrics has found that the separation of children from their parents under the zero-tolerance policy “‘cause[d] irreparable harm’ to children by inhibiting brain development and causing other long-term health problems.”¹⁵

69. Andrea has been diagnosed with PTSD and other conditions.

COUNT I
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST MR. ARREDONDO RODRIGUEZ

70. Paragraphs 1 to 68 of this complaint are incorporated as if set forth herein.

71. By engaging in the acts described above, federal officials and agents, at the direction of the United States, engaged in extreme and outrageous conduct with the intent to cause, or with reckless disregard for the probability of causing, Mr. Arredondo Rodriguez to suffer severe emotional distress as a result of being separated from his child, his incarceration, the severe conditions of his incarceration, his wrongful deportation, and all of the other misconduct described herein.

¹⁵ DURBIN ET. AL., *supra* note 7.

72. As a direct and proximate result of the government's conduct, Mr. Arredondo Rodriguez has in fact suffered and continues to suffer severe emotional distress.

73. Under the FTCA, the United States is liable to Mr. Arredondo Rodriguez for intentional infliction of emotional distress.

COUNT II

NEGLIGENCE ON BEHALF OF MR. ARREDONDO RODRIGUEZ

74. Paragraphs 1 to 73 of this complaint are incorporated as if set forth herein.

75. The federal officials referenced above had a duty to Mr. Arredondo Rodriguez to act with ordinary care so as not to cause harm or injury to Mr. Arredondo Rodriguez.

76. By engaging in the acts alleged herein, federal officials, at the direction of the United States, failed to act with ordinary care and breached their duty of care to Mr. Arredondo Rodriguez.

77. As a direct and proximate result of the above-referenced conduct, Mr. Arredondo Rodriguez suffered substantial damages.

78. Under the FTCA, the United States is liable to Mr. Arredondo Rodriguez for negligence.

COUNT III

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST MR.
ARREDONDO RODRIGUEZ**

79. Paragraphs 1 to 78 of this complaint are incorporated as if set forth herein.

80. By engaging in the acts described above, federal officials and agents, at the direction of the United States, engaged in negligent and grossly negligent conduct which caused Mr. Arredondo Rodriguez to suffer severe emotional distress as a result of being separated from his child, his incarceration, the severe

1 conditions of his incarceration, his wrongful deportation, and all of the other
2 misconduct described herein.

3 81. The federal officials referenced above had a duty to Mr. Arredondo
4 Rodriguez to act with ordinary care so as not to cause harm or injury to
5 Mr. Arredondo Rodriguez.

6 82. By engaging in the acts alleged herein, federal officials, at the
7 direction of the United States, failed to act with ordinary care and breached their
8 duty of care to Mr. Arredondo Rodriguez.

9 83. As a direct and proximate result of the government's conduct,
10 Mr. Arredondo Rodriguez has in fact suffered and continues to suffer severe
11 emotional distress.

12 84. Under the FTCA, the United States is liable to Mr. Arredondo
13 Rodriguez for negligent infliction of emotional distress.

14 **COUNT IV**
15 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST**
16 **ANDREA**

17 85. Paragraphs 1 to 84 of this complaint are incorporated as if set forth
18 herein.

19 86. By engaging in the acts described above, federal officials and agents,
20 at the direction of the United States, engaged in extreme and outrageous conduct
21 with the intent to cause, or with reckless disregard for the probability of causing,
22 Andrea to suffer severe emotional distress as a result of being separated from her
23 father, her confinement, the severe conditions of her confinement, and all of the
24 other misconduct described herein.

25 87. As a direct and proximate result of the government's conduct, Andrea
26 has in fact suffered and continues to suffer severe emotional distress.

27 88. Under the FTCA, the United States is liable to Andrea for intentional
28 infliction of emotional distress.

COUNT V

NEGLIGENCE ON BEHALF OF ANDREA

89. Paragraphs 1 to 88 of this complaint are incorporated as if set forth herein.

90. The federal officials and agencies referenced above had a duty to Andrea to act with ordinary care so as not to cause harm or injury to Andrea.

91. By engaging in the acts alleged herein, federal officials and agencies, at the direction of the United States, failed to act with ordinary care and breached their duty of care to Andrea.

92. As a direct and proximate result of the above-referenced conduct, Andrea suffered substantial damages.

93. Under the FTCA, the United States is liable to Andrea for negligence.

COUNT VI

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST ANDREA

94. Paragraphs 1 to 93 of this complaint are incorporated as if set forth herein.

95. By engaging in the acts described above, federal officials and agents and their agencies, at the direction of the United States, engaged in negligent and grossly negligent conduct which caused Andrea to suffer severe emotional distress as a result of being separated from her father, her confinement, and the conditions of her confinement.

96. The federal officials and agencies referenced above had a duty to Andrea to act with ordinary care so as not to cause harm or injury to Andrea.

97. By engaging in the acts alleged herein, federal officials and agencies, at the direction of the United States, failed to act with ordinary care, and breached their duty of care to Andrea.

